

## Title 210 – NEBRASKA DEPARTMENT OF INSURANCE

### Chapter 49 - LOSS RESERVE DISCOUNTING FOR MEDICAL PROFESSIONAL LIABILITY INSURANCE

~~001. Authority. This rule is promulgated pursuant to the authority granted in Neb.Rev.Stat. §§44-101.01 and §44-401.~~

~~002. Purpose. The purpose of this regulation is to provide domestic property and casualty insurance companies writing medical professional liability insurance coverage with specific rules which must be followed if such insurance companies elect to discount the loss reserves for such insurance coverage. This regulation does not allow discounting of loss reserves for any other insurance coverage which is not specifically referred to in this regulation.~~

~~003. Definitions. For the purpose of this rule the following terms shall have the meanings herein provided.~~

~~003.01 Annual Statement and Other Financial Statements mean the annual statement as defined in Neb.Rev.Stat. §44-322(1) and all other financial statements required to be filed with the Department of Insurance by the Director.~~

~~003.02 Director means the Director of Insurance for the State of Nebraska.~~

~~003.03 Domestic Property and Casualty Insurance Company refers to those property and casualty insurance companies incorporated or formed in the State of Nebraska.~~

~~003.04 Loss Reserves and Loss Adjustment Expense Reserves hereinafter called "Loss Reserves" means the same as in the Annual Statement Instructions adopted by the National Association of Insurance Commissioners.~~

~~003.05 Medical Professional Liability Insurance shall mean the portion of any insurance policy for which premiums for medical professional liability insurance are separately stated and all indivisible premium policies for which at least one-half of the premium is for medical professional liability coverage. Medical professional liability insurance is insurance of persons lawfully engaged in the practice of medicine, surgery, dentistry, nursing, dispensing drugs or medicines, or other health care services, and persons lawfully engaged in the operation of hospitals, sanitariums, nursing homes, and other health care institutions, against loss, expense and liability resulting from errors, omissions, or neglect in the performance of professional service. It does not include insurance of persons engaged in the care and treatment of animals.~~

~~003.06 Qualified Actuary shall mean a person:~~

~~003.06A who is a fellow or associate of the Casualty Actuarial Society, a member of the American Academy of Actuaries and independent of the insurance company electing to discount its reserves; or~~

~~003.06B all of the following:~~

~~003.06B(1) who has demonstrated to the Director that he or she is possessed of the educational background and experience necessary for the practice of actuarial science including, but not limited to, the evaluation of casualty loss reserves;~~

~~003.06B(2) who is independent of the insurance company electing to discount its reserves; and~~

~~003.06B(3) who has the prior written approval of the Director to sign loss reserve opinions required by this rule.~~

#### ~~004. Applicability-~~

~~004.01 Domestic property and casualty insurers may discount loss reserves for medical malpractice insurance if such insurers have obtained the prior written approval of the Director.~~

~~004.02 The reserves which may be discounted are "loss reserves" including both reserves for incurred but not reported claims and case reserves.~~

~~004.03 All financial filings with the Department of Insurance which include discounting of loss reserves shall contain the information required by this regulation.~~

~~005. General rules. The annual statement and any other filings designated by the Director shall be accompanied by a certification of a statement of opinion by a qualified actuary reflecting accurately the effect of discounting of loss reserves on the domestic property and casualty insurer's financial condition. The opinion shall include the following:~~

- ~~—— 005.01 An assessment of the adequacy of the undiscounted reserve.~~
- ~~—— 005.02 An assessment of the appropriateness of the assumed interest rate, considering at least the following:~~
  - ~~—— 005.02A valuation of assets at market value;~~
  - ~~—— 005.02B yield on assets; and~~
  - ~~—— 005.02C the match of asset maturities to corresponding liabilities.~~
- ~~—— 005.03 An assessment of the appropriateness of the writings to surplus ratio of the insurance company.~~
- ~~—— 005.04 An assessment of the appropriateness of the loss reserve to surplus ratio of the insurance company.~~
- ~~—— 005.05 An assessment of the appropriateness of the anticipated payment schedule, considering at least the following:~~
  - ~~—— 005.05A the domestic insurer's own paid loss development history to the extent available and credible;~~
  - ~~—— 005.05B to the extent that such history is not relevant or credible, experience of other insurers after allowance for any differences in form of coverage, nature of risks insured, limits written or retention levels after reinsurance; and~~
  - ~~—— 005.05C timing of reinsurance recoverables and, if applicable, any additional reinsurance premiums that may fall due.~~
- ~~—— 005.06 A description of the formula(s) used for discounting, including any provision for adverse deviation.~~
- ~~—— 005.07 An evaluation of any additional reinsurance premiums which may be due if loss development covered under retrospectively rated reinsurance proves adverse.~~
- ~~—— 005.08 Any other factors needed to reflect accurately the effect of discounting on the financial condition of the domestic insurer or required by the Director.~~

~~006. Disclosure of discounting of loss reserves in annual and other financial statements. Domestic property and casualty insurers discounting loss reserves shall disclose such practice in their annual and other financial statements in accordance with the instructions adopted by the National Association of Insurance Commissioners.~~